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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JAMAL KEARSE,

Plaintiff,

-against-

DEPARTMENT OF CORRECTION, CAPTAIN
CHESTNUT, CORRECTION OFFICER ALMANZAR,
CORRECTION OFFICER SMITH, AND DR. ROUCHE,

Defendants.
----- X

**STIPULATION AND ORDER
OF SETTLEMENT AND
DISCONTINUANCE**

08 CV 1503 (GBD)(AJP)

WHEREAS, plaintiff commenced this action by filing a complaint on or about February 13, 2008, alleging that the defendants violated plaintiff's civil rights; and

WHEREAS, defendants have denied any and all liability arising out of plaintiff's allegations; and

WHEREAS, the parties now desire to resolve the issues raised in this litigation, without further proceedings and without admitting any fault or liability;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, as follows:

1. The above-referenced action is hereby dismissed, with prejudice, and without costs, expenses, or fees in excess of the amount specified in paragraph "2" below.

2. The City of New York hereby agrees to pay plaintiff JAMAL KEARSE the sum of FIVE HUNDRED DOLLARS (\$500) in full satisfaction of all claims made against the defendants, including claims for costs, expenses, and attorney fees. In consideration for the payment of this sum, plaintiff agrees to the dismissal of all the claims against the named defendants, the New York City Department of Correction, Captain Chestnut, Correction Officer

Almanzar, Correction Officer Smith, and Physician's Assistant Roche, with prejudice, and to release all of the defendants, any present or former employees or agents of the City of New York, or any agency thereof, including, but not limited to, the New York City Department of Correction, from any and all liability, claims, or rights of action under state or federal law arising from and contained in the complaint in this action, including claims for costs, expenses and attorney fees.

3. Plaintiff shall execute and deliver to the defendants' attorney all documents necessary to effect this settlement, including, without limitation, a General Release based on the terms of paragraph "2" above and an Affidavit Concerning Liens.

4. Nothing contained herein shall be deemed to be an admission by any of the defendants that they have in any manner or way violated plaintiff's rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules, regulations or bylaws of any department or subdivision of the City of New York. This stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.

5. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York or the New York City Department of Correction.

6. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York
July 14, 2008

Jamal Kears
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By: Jamal Kears
Jamal Kears
Plaintiff Pro Se

By: Bradford C. Patrick
Bradford C. Patrick
Assistant Corporation Counsel

SO ORDERED:

Andrew J. Peck 7/21/08
HON. ANDREW J. PECK, U.S.M.J.

HON. ANDREW J. PECK
United States Magistrate Judge
Southern District of New York

att: Peck/Almanzar
John Jones